GOVERNMENT OF INDIA
FINANCE
LOK SABHA

STARRED QUESTION NO:357
ANSWERED ON:09.12.2016
Norms for Construction Sector
Birla Shri Om;Boianapalli Shri Vinod Kumar

Will the Minister of FINANCE be pleased to state:

(a) the capital inflow in the construction sector during the last three years and the current year;
(b) whether the Government has introduced new arbitration norms to ease liquidity so as to restart stalled projects in the ailing construction sector and if so, the details thereof;
(c) whether the Government proposes to set up Conciliation Committees by Government bodies issuing public contracts to ensure speedy disposal of pending or new cases and if so, the details thereof;
(d) whether the Government has eased the norms of foreign investments in the construction section and if so, the details thereof; and
(e) whether the said move has registered a steady increases in the foreign investment in the said sector and if so, the details thereof?
ANSWER
FINANCE MINISTER
(SHRI ARUN JAITLEY)

(a) to (e) A statement is laid on the Table of the House.

Answer

THE FINANCE MINISTER
(SHRI ARUN JAITLEY)

(a) to (e) A statement is laid on the Table of the House.

STATEMENT AS REFERRED TO IN REPLY TO PART (a) to (e) OF STARRED QUESTION NO. *357 ON NORMS FOR CONSTRUCTION SECTOR ASKED BY SHRI B. VINOD KUMAR & SHRI OM BIRLA TO BE ANSWERED ON 09.12.2016 IN LOK SABHA

The FDI inflow in the Construction Development Sector during the last three years and the current year is stated as under:
(US$ in million)
2013-2014 2014-2015
2015-2016
2016-2017
(April-September)
1226.05 769.14
112.55 61.85

The following instructions have been issued by Government to ease liquidity so as to restart stalled projects in the ailing construction sector:
(i) In case of contracts/ concessions where the process of arbitration was initiated under the pre-amended Arbitration Act, the PSUs/ Departments may seek the consent of the contractors / concessionaires to transfer the pending cases under the amended Arbitration Act, wherever possible. The shift to amended Arbitration Act is expected to make the arbitration process more cost effective and help in settlement of the disputes in a timely manner.
(ii) In case of claims where the PSU / Department has challenged the Arbitral Award already announced, 75% of the award may be paid by the PSU / Department to the contractor / Concessionaire against Bank Guarantee without prejudice to the final order of the Court in the matter under challenge. The payment may be made into a designated Escrow Account with the stipulation that the amount so released will be used, first, for payment of lenders' dues; second, for completion of the project; and then, for completion of other projects of the same PSU / Department, as mutually agreed / decided. Any balance remaining in the escrow account subsequent to settlement of lenders' dues and completion of projects of the PSU / Department may be allowed to be used by the contractor / concessionaire with the prior approval of the lead banker and Department / PSU.
(iii) In case the subsequent court order requires refund of the money paid by a PSU / Department against a Bank Guarantee, the amount shall be refunded by the contractor / concessionaire along with appropriate interest. The rate of interest on such refund amount may be decided by the PSU / Department keeping in view the cost of capital to the PSU / Department or the rate of interest provided for in the Contract Agreement or the rate of interest awarded under the Arbitral Award under challenge.

The Government has issued instructions for all PSUs/ Departments issuing public contracts to consider setting up Conciliation

Committees/ Councils comprising of independent subject experts in order to ensure speedy disposal of pending or new cases. Recourse to such conciliation may be open before, during or after the Arbitration proceedings.

FDI policy on Construction Development permits 100% foreign investment under automatic route subject to certain conditions. FDI policy in this sector was last liberalized on 24.11.2015. In order to liberalize and bring pragmatism in the policy so as to attract more foreign investment in the country not only in large infrastructure projects but also in held-up and smaller projects, the following amendments were introduced in the FDI policy for the sector:

i. Removal of conditions of area restriction of floor area of 20,000 sq. mtrs in construction development projects and minimum capitalization of US $ 5 million to be brought in within the period of six months of the commencement of business;

ii. Exit and repatriation of foreign investment is now permitted after a lock-in-period of three years. Transfer of stake from one non-resident to another non-resident, without repatriation of investment will not be subjected to any lock-in period or to any government approval;

iii. Exit is permitted at any time if project or trunk infrastructure is completed before the lock-in period;

iv. 100% FDI under automatic route is permitted in completed projects for operation and management of townships, malls/ shopping complexes and business centres;

v. Different phases of the construction development projects will be considered as separate projects for the purposes of FDI policy;

vi. Earning rent/ income on lease of the property, as long as transaction does not result into transfer of property, will not amount to 'Real Estate Business';

vii. Term 'transfer' has been defined for the purposes of FDI policy.

The measures taken by the Government are with a view to increasing investment, including foreign investment, in the construction sector.

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